



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 04914-99

25 February 2000

ET2 [REDACTED] USN

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 24 November 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The leading petty officer (LPO)'s statement in block 17 ("Remarks") of your application did not persuade the Board that your immediate supervisor was biased against you. In this regard, they noted the LPO did not specify the basis for his finding of bias. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

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Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

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PERS-311  
24 NOV 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: ET2 [REDACTED], USN [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of the performance report for the period 15 July 1996 to 12 March 1997.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record did not reveal the report in question to be on file; however, the member provides with his petition a copy of the report. The report was found suitable for filing and is in the process of being placed in the member's digitized record. The member signed the report indicating his desire not to submit a statement. Per reference (a), the member has two years from the ending date of the report to submit a statement if desired. PERS-311 did not receive a statement from the member.

b. The member feels that the report in question is incorrect and unjust due to missing the senior rater's signature, and the trait marks assigned being an inaccurate reflection of his performance, as per previous and subsequent performance reports.

c. Reference (a), Annex O, page O-1, states that if the rater or senior rater is unavailable to sign the report than a reason should be typed in block 41, Signature of Senior Rater. Failure of the reporting senior to indicate why the senior rater did not sign the report does not justify invalidating a performance report. The report is valid.

d. The report represents the judgment and appraisal responsibility of the reporting senior for a specific period of

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Subj: ET2 [REDACTED] US [REDACTED]

time. It is not required to be consistent with previous or subsequent reports, and is not routinely open to challenge.

e. The member does not prove the report to be unjust or in error.

3. We recommend retention of the report in question.

[REDACTED]  
[REDACTED]  
[REDACTED]

Head, Performance  
Evaluation Branch